

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ROSALINDA H. BECERRA,

Plaintiff,

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

Case No. 1:21-cv-01658-JLT-CDB

ORDER DISCHARGING ORDER TO
SHOW CAUSE

(ECF Nos. 15, 16, and 18).

On November 17, 2021, Plaintiff Rosalinda H. Becerra filed the present action in this court seeking review of the Commissioner's denial of an application for Social Security Disability Insurance benefits and Supplemental Security Income benefits for lack of disability. (ECF No. 2). On November 22, 2021, the Court issued an Order directing the parties, within ninety (90) days, to complete and file a Consent to Magistrate Judge Assignment or Request for Reassignment form. (ECF No. 6).

On October 24, 2022, the Court issued an order requiring Plaintiff to show cause why sanctions should not be imposed for failure to file a consent or reassignment form. (ECF No. 15). On October 25, 2022, Plaintiff filed a consent/decline of U.S. magistrate judge jurisdiction form. (ECF No. 16). On October 26, 2022, Plaintiff filed a response to the order to show cause. (ECF No. 18). Counsel for Plaintiff represented his failure to file the form was due to a calendaring error stemming from a software update to Counsel's client case management system.

1 *Id.* at 2. Counsel for Plaintiff apologized for the oversight and asserts this failure falls under
2 excusable neglect and should not result in sanctions. *Id.*

3 To determine whether neglect is excusable, a court must consider four factors: "(1) the
4 danger of prejudice to the opposing party; (2) the length of the delay and its potential impact on
5 the proceedings; (3) the reason for the delay; and (4) whether the movant acted in good faith."
6 *In re Veritas Software Corp. Sec. Litig.*, 496 F.3d 962, 973 (9th Cir. 2007). The Court finds
7 Plaintiff's counsel's failure to file a consent or reassignment form constituted excusable neglect
8 and finds good cause to discharge the show cause order.

9 Accordingly, IT IS HEREBY ORDERED that the Court's October 24, 2022, order to
10 show cause is (ECF No. 15) is DISCHARGED.

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12 IT IS SO ORDERED.

13 Dated: October 27, 2022

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UNITED STATES MAGISTRATE JUDGE